

REMARKS

Claims 10-30 are pending in the present application. Applicants respectfully respond to this Office Action and amend independent claims 10, 17, 20, and 29.

Claim Rejections – 35 USC § 103(a)

Examiner rejected claims 10-30 under 35 U.S.C. § 103(a) as being unpatentable over van Nee (U.S. Patent No. 6, 175, 550) in view of Hara et al. (Shinsuke Hara & Ramjee Prasad, *Overview of Multicarrier CDMA*, IEEE Comm. Mag., Dec. 1997, at 126) further in view of Applicant's Admitted Prior Art.

Applicant's claims 10-30 as amended are patentable over van Nee and Hara. Applicants amend independent claims 10, 17, 20, and 29 to highlight the feature that the designation of the frequency bins is responsive to loading. This amendment is fully supported by Applicants' specification as originally filed. For example, please see pages 11 through 14.

To maintain a *prima facie* case of obviousness, there must be a suggestion or motivation to combine, a reasonable expectation of success, and the prior art references must teach or suggest all claim limitations (please see MPEP § 2142). Further, the prior art must be considered in its entirety, including disclosures that teach away from the claims (please see MPEP § 2142.02). Van Nee and Hara do not teach or suggest all features of Applicant's claims. Further, there is no teaching or suggestion to combine. Therefore, there is no *prima facie* case of obviousness against Applicant's claims as amended and they are patentable over the cited.

Applicant's claim 10, and all of Applicant's claims, include the feature that the designation of the frequency bins is responsive to loading. Van Nee and Hara do not disclose this feature. The use of bins allocated for single-carrier CDMA communication within the respective bin further distinguishes from the cited art which does not have the advantages of frequency allocation based on loading of frequency bins comprising signals code spread in the time domain, including flexible spectrum management and integration with existing hardware as well as the flexibility in selection of various frequency bins. Because all of the claim features are not taught by the cited art, Applicants' claims are patentable over the cited art.

REQUEST FOR ALLOWANCE

In view of the foregoing, Applicants submit that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

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